

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
08-CV-404 (JMR/JSM)

Reginald Lee Gail)
)
 v.) ORDER
)
Lynn M. Dingle, Warden)

This matter is before the Court for consideration of the Report and Recommendation, issued November 14, 2008 [Docket No. 14], by the Honorable Janie S. Mayeron, United States Magistrate Judge. The Report recommended that certain grounds for habeas relief under 28 U.S.C. § 2254 be dismissed, and directed respondent to respond to the remaining grounds. Petitioner pro se timely objected to the dismissal pursuant to Local Rule 72.2.

Based on a de novo review of the record, the Court adopts the Magistrate's Report and Recommendation. Accordingly, IT IS ORDERED that:

1. Grounds 3, 4, 10, and 11, as well as grounds 2 and 13 as they relate to ineffective assistance of trial counsel, of the petition for habeas corpus [Docket No. 1] are dismissed with prejudice.

2. Within 20 days from the date of this Order, respondent is directed to respond to the substance of grounds 1, 5, 6, 7, 8, 9, and 12, and grounds 2 and 13 as they relate to ineffective assistance of appellate counsel. Respondent is further directed to provide the Court, consistent with Rule 5 of the Rules Governing §

2254 Cases in United States District Courts, all of the following materials that bear upon these claims: all available pretrial, trial, and post-conviction transcripts; all briefs submitted by the parties to the state district court, or in post-conviction proceedings, or to Minnesota appellate courts; all orders issued by the state district court, or by a court resulting from post-conviction proceedings.

Dated: December 22, 2008

S/JAMES M. ROSENBAUM
JAMES M. ROSENBAUM
United States District Judge